

REMARKS

Claims 1-11 are all the claims pending in the application. By this Amendment, Applicant amends claims 1 and 9. No new matter is added. Support for the amendments is found, *e.g.*, at pages 3-4 of the specification as filed and in Figure 1. Reconsideration and allowance of claims 1-11 are respectfully requested in view of the following remarks.

I. Preliminary Matters

Applicant thanks the Examiner for accepting the drawings filed on March 1, 2004, and for acknowledging the claim to foreign priority and for confirming that the certified copy of the priority document was received. Applicant also thanks the Examiner for initialing the references listed on forms PTO/SB/08 submitted with the Information Disclosure Statements filed on March 1, 2004.

II. Summary of Office Action

The Examiner has rejected claims 1-3 and 5-11 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application No. 2002/0064157 A1 to Krause (hereinafter “Krause”). Claim 4 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Krause in view of U.S. Patent Application No. 2001/0038610 A1 to Decker et al. (hereinafter “Decker”).

III. Rejections under 35 U.S.C. § 102(e)

Claims 1-3 and 5-11 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Krause. Applicant respectfully traverses this rejection because the reference fails to describe each and every element as set forth in the claims, either expressly or inherently.

Independent claim 1 recites and independent claim 9 similarly recites “in a third phase during the transmission cycle, sending at least one of realtime data telegrams and non-realtime

data telegrams while suppressing the transmission of those of the non-realtime data telegrams for which the transmission cannot be concluded during the third phase.” The grounds of rejection maintain that Krause teaches this unique feature of claims 1 and 9, citing [0034], right col., lines 23-24 and Fig. 2, #15. *See* page 3 of the Office Action. Applicant respectfully disagrees.

The Examiner notes that the phase in Krause in which blocks #15 are transmitted corresponds to phase 3 of an exemplary embodiment of the present invention. The Examiner further notes that in Krause “no non-real-time data is allowed to be sent in blocks #15.” *See* page 3 of the Office Action. In other words, in the alleged third phase of Krause, the transmission of non-realtime data is completely prohibited. Even short non-realtime data the transmission of which can be concluded during this phase cannot be transmitted in this phase in Krause. Only “data telegrams for the organization of the data transmission 15” are permitted. *See* [0034], right col., lines 23-24.

By contrast, the transmission of any type of non-realtime data telegrams is generally allowed in the third phase and only “the transmission of those of the non-realtime data telegrams [is suppressed] for which the transmission cannot be concluded during the third phase,” as recited in claim 1, as similarly recited in claim 9, and as shown in Figure 1.

Consequently, Krause fails to disclose or even suggest the above-noted unique feature of claims 1 and 9 and thus fails to describe each and every element as set forth in the claims, either expressly or inherently.

Therefore, claims 1 and 9 are not anticipated by Krause. Applicant respectfully requests that the rejection of claims 1 and 9 under 35 U.S.C. § 102(e) be reconsidered and withdrawn. Claims 2-3, 5-8, and 10-11 depend on claims 1 and 9, respectively, and are patentable over Krause at least by virtue of their dependency.

IV. Rejections under 35 U.S.C. § 103(a)

Claim 4 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Krause in view of Decker. Decker does not remedy the deficiencies of Krause and claim 4 is thus patentable over Krause in view of Decker at least due to its dependence from claim 1.

Therefore, Applicant respectfully requests that the rejection of claim 4 under 35 U.S.C. § 103(a) be reconsidered and withdrawn.

V. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER


George F. Lehnigk
Registration No. 36,359

Date: March 3, 2008